



Appeal Decision

Site visit made on 6 June 2024

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2024

Appeal Ref: APP/T4210/W/24/3340182

10 Union Street and 40 The Rock, Bury, BL9 0NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Sid Sethi (Specscart Limited) against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 69914.
 - The development proposed is modifications to existing window openings.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Sid Sethi (Specscart Limited) against Bury Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in the appeal is whether or not the proposal would preserve or enhance the character or appearance of Bury Town Centre Conservation Area.

Reasons

4. The appeal site is located within Bury Town Centre Conservation Area. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be had to the desirability of preserving or enhancing the character and appearance of a conservation area.
5. The conservation area covers the historic core of the town centre – a medieval market town that grew rapidly during the industrial revolution. In places the medieval street patterns can still be seen and the conservation area contains many fine and imposing civic and commercial buildings which reflect the prosperity of the town during the industrial revolution. These attributes contribute to the historic and architectural significance of the conservation area.
6. The appeal premises consists of two linked buildings on the corner of The Rock and Union Street. Both buildings are in the classical revival style with ashlar stone at the ground floor level and red brick on the upper floors. 40 The Rock is a three storey building, whilst 10 Union Street is 2 storey. Although different in their designs, ornate detailing surrounds the windows and doors on both buildings and there are stone string courses and other fine architectural detailing on the upper floors. No 40 has had some unsympathetic alterations to

facilitate cash machines and a night safe related to its previous use, but otherwise the external appearance of the two buildings remains intact. It is not disputed that both buildings are non-designated heritage assets, and they are characteristic of the fine commercial and civic buildings built at the height of the town's prosperity.

7. The buildings are located on the edge of the conservation area, where the town centre transitions from the historic core to the more modern retail core. Located on a prominent corner, they act as a 'gateway feature' at the start of the conservation area, when approaching westwards along The Rock or on exiting from Millgate shopping centre. Notwithstanding the various items of street furniture on The Rock, the fine architectural detailing of the buildings is clearly visible in the street scene and draws the eye. It provides a marked contrast with the somewhat bland modern shopfronts in the immediate vicinity. As such, both historically and architecturally, the buildings make a positive contribution to the character and appearance of the conservation area.
8. The appeal proposal involves enlarging the 2 ground floor windows on No 10 and the 3 ground floor windows on the elevation facing The Rock on No 40 to create larger shopfront display windows. It would also involve creating display windows in the 2 unused doors on the Union Street frontage.
9. With the ornate arched moulding above, and stone pillars at the side, the windows on No 40 are a prominent feature on the building. The proposed enlargement of the windows on the frontage facing The Rock would lower their cill to plinth level. Whilst the proposed works would have the effect of removing the unsympathetic alterations made to accommodate the cash machine and night safe, they would disrupt the architectural rhythm of the fenestration by creating larger windows on one elevation of the building than the other. Moreover, the proposed windows would sit uncomfortably in their stone surrounds as the glazing would extend further than the columns to the side. Although retaining the vertical emphasis of the fenestration, the proposal would also disrupt the graduated proportions of the windows over the three floors of the building.
10. The creation of window displays within the two former entrances on the Union Street frontage that are currently boarded up would not alter the position or proportion of these openings. However, the windows on No 10 have a horizontal emphasis. In giving the windows on this building a greater height by lowering the cill level the proposal would not respect this. Moreover, it would result in windows that would be out of proportion with the fenestration on the upper floors of the building.
11. In support of the appeal my attention was drawn to the fact that cill heights on buildings vary and that there are a number of commercial buildings in the conservation area whose large modern shop fronts show little or no respect to the architecture of the host property. I do not know when these shop fronts were erected or the policies that applied at the time of their consideration. In any event, those I saw confirmed that inappropriate alterations to such buildings are detrimental to both the host property and the conservation area and so they do not set a precedent that should be followed. Thus, they do not justify allowing the appeal scheme.
12. Overall, the appeal scheme would harm the architectural significance of both these non-designated heritage assets, and in doing so would be detrimental to

the character and appearance of the conservation area. Consequently, the proposal would fail to preserve, and would unacceptably harm, the character and appearance of Bury Town Centre Conservation Area. Accordingly, it would conflict with Policies EN2/1, EN2/2, EN1/1 and EN1/2 of the Bury Unitary Development Plan (adopted August 1997) (UDP) which require that proposals should preserve or enhance the special character and appearance of conservation areas and should not unacceptably harm the character or townscape or public views of prominent and important buildings especially those of architecturally or historic interest.

13. Having regard to paragraph 208 of the National Planning Policy Framework (the Framework) the harm caused to the conservation area would be less than substantial and so should be weighed against the public benefits of the proposal.
14. The proposed development would create larger display windows for the optician's business, with the lower cill level facilitating easier viewing of the window displays from the public realm where the current cill height is approximately eye level. However, this is predominantly a benefit to the business in facilitating customer interest rather than a public benefit. It is clear from the appellant's evidence that the business is currently operating successfully with the current windows on No 10. So, I am not persuaded that larger windows are essential for the business to operate effectively, or that they are a necessity for the business to expand into the ground floor area of No 40. Therefore, I consider that the various economic, social and environmental benefits the appellant has suggested would result from the expansion of the business into this part of No 40 do not weigh in favour of the scheme.
15. The creation of active window displays in No 40 would enhance the vitality of the street scene and provide some limited opportunities for natural surveillance of the street scene. However, larger windows would make negligible difference in this regard over and above using the windows at their current size. Whilst the previous unsympathetic alterations to the elevations to install cash machines and a night safe would be removed by the proposal, larger windows, that in themselves cause harm to the architectural significance of the building, are not necessary to achieve this.
16. The desirability of preserving or enhancing the character or appearance of a conservation area is a matter of considerable importance and weight. In this case, I consider that the very limited public benefits of the proposal would be insufficient to outweigh the less than substantial harm the proposal would cause.

Other Matters

17. The appeal site is located within the primary shopping area of the town centre where various UDP policies seek to protect and enhance the vitality and viability of the centre by encouraging retailing and associated uses. However, the proposal is for modifications of windows on two building not for a retailing or other town centre use. Whilst the refurbishment of the ground floor of No 40 to enable the expansion of the existing opticians business into this floorspace may be waiting for the outcome of this appeal, there is no substantive or persuasive evidence that the appeal scheme is essential to enable the re-use of this part of the building by the business. Therefore, the town centre and

retailing policies referred to by the appellant are not relevant to the determination of the appeal.

18. The appellant has also made reference to UDP Policy EN1/8 which relates to shop fronts. However, this policy requires proposals to alter a shop front to respect the architectural elements of the building and the character of the street. I have concluded above that the proposal would not do this. Moreover, in harming the architectural significance of the building the proposal would not benefit the environmental quality of the town centre.
19. The Council's evidence indicates that restorative works to the building for the former cash machine and night safe could be carried out without requiring planning permission as they would not materially affect the external appearance of the building. The appellant has suggested that this provides a direct comment on the scope of works proposed in appeal scheme and shows that the proposal would not harm the appearance of the building. However, the appeal proposal is not simply just carrying out restorative works but enlarging a number of windows. I have concluded that this work would harm the character and appearance of the building and the conservation area.

Planning Balance and Conclusion

20. The appellant has argued that the various heritage policies within the UDP which are most important for determining the application are out of date and paragraph 11 d of the Framework is engaged. This paragraph indicates that in such circumstances permission should be granted unless either of the 2 situations described in sub-paragraphs d i or ii apply. Paragraph 11 d i indicates that this presumption in favour of permission does not apply where the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 7 indicates that this includes designated heritage assets.
21. I have concluded above that the proposal would not preserve, and would unacceptably harm, the character and appearance of Bury Town Centre Conservation Area and that the public benefits of the proposal would not outweigh this harm. Therefore, even if it considered that paragraph 11 d is engaged, the application of the policies in the Framework relating to designated heritage assets provide a clear reason for refusing the development proposed.
22. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR